

THE PROCESS

- The Special Education Mediation System is a service provided to parents and the public education agencies to assist in resolving disputes related to the identification, evaluation, educational placement of a child or the provision of a Free Appropriate Public Education (FAPE) to the child. The System is administered by the Exceptional Student Services Division of the Arizona Department of Education (ADE/ESS).
- Parent(s) or the public education agency representative contacts the ADE/ESS to request mediation.
- The ADE/ESS explains the mediation process, obtains assurances that both parties are willing to mediate.
- The ADE/ESS staff contacts a randomly selected mediator to facilitate the mediation.
- Upon selection and assignment of a mediator, all parties are notified by ADE/ESS. The mediator contacts the parties to schedule mediation.
- Written materials and forms regarding the mediation process are sent from the ADE/ESS office to the mediator and the parties involved.
- After the mediation is scheduled, the mediator will inform the ADE/ESS regarding the mediation, including parties and issues involved.
- Upon completion of mediation, the parties mail evaluation forms and the mediator mails the original mediation agreement to ADE/ESS.
- All mediation documents sent to the ADE/ESS will be maintained in confidential files.

- Mediation cannot be used to deny or delay a parent's right to a due process hearing.
- Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings.

THE MEDIATOR

- Will be a single mediator unless a mentor/trainee team is used.
- Contacts both parties prior to the mediation to clarify the issues, gather necessary information and explain the mediation process.
- Schedules the mediation with both parties.
- Determines who may be present during the mediation, limiting the number of participants generally to a maximum of three for each party.
- Encourages open communication.
- Acts as an impartial facilitator, not as a special education expert or decision-maker.
- Establishes an understanding of the nature of the disagreement and determines points of agreement.
- Limits discussions to the current or future aspects of the situation.
- May caucus (meet privately), if necessary, with both parties during the mediation, and maintains confidentiality of those discussions unless the parties otherwise agree.
- Writes a specific, concise mediation agreement to be signed by, and provided to, the parties involved.

THE PARTIES

- Provides ADE/ESS with the original agreement.
- May terminate the mediation if an agreement cannot be reached, or if parties do not follow the agreed upon mediation guidelines.
- Will not participate in due process hearings or future legal proceedings.
- Agree to approach the mediation in good faith, with the intention of reaching an agreement.
- Present their viewpoint, including all relevant information.
- Meet separately with the mediator when necessary or appropriate. This may occur when sensitive information is to be shared, or when necessary to address private concerns of the parties.
- Ask for clarification whenever material or a point of discussion is not understood.
- Actively participate in mediation and in the drafting of the mediation agreement.
- Schedule an Individualized Education Program (IEP) meeting to include any agreed upon changes to the student's IEP.
- Take those steps necessary to ensure a sufficient amount of time is available to complete the mediation process. This is generally four to eight hours.

THE SYSTEM

The Arizona Department of Education...

- Trains and provides in-service to special education mediators.
- Provides mediation at no cost to either party.
- Assigns randomly selected mediators when both parties have agreed to mediate.
- Evaluates and monitors the effectiveness of the mediation system.
- Requires that each party have a participant with the authority to act on behalf of the student and the public education agency, respectively.

Mediation...

- Is voluntary.
- Is an informal and effective way to resolve differences in a positive manner.
- Is a problem-solving process, rather than an adversarial process, which requires the parties to communicate directly with each other and to work toward a mutually agreeable solution; therefore, legal representation is not recommended during this interaction. If either party intends to have legal representation, prior notice must be provided to the other party.
- Is generally completed in one-half to one full day.

ARIZONA DEPARTMENT OF EDUCATION

EXCEPTIONAL STUDENT SERVICES

MEDIATION SYSTEM FOR SPECIAL EDUCATION

*If you have any questions call:
(602) 542-3084*